



**MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
DECEMBER 10, 2003**

PRESENT: David Gulino, Chairman
Steve Steinberg, Vice Chairman
David Barnett, Commissioner
James Heitel, Commissioner
Eric Hess, Commissioner

ABSENT: Jeffery Schwartz, Commissioner

STAFF: Kurt Jones
Tim Curtis
Pat Boomsma
Cheryl Sumners
Kira Wauwie
Al Ward

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:00 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

CHAIRMAN GULINO reported that Commissioner Nelssen resigned during study session.

APPROVED

MINUTES APPROVAL

November 19, 2003

COMMISSIONER HEITEL MADE A MOTION TO APPROVE THE NOVEMBER 19, 2003 MINUTES AS PRESENTED. SECOND BY COMMISSIONER BARNETT.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

WITHDRAWAL

31-UP-2003 (AZ Power Sports) request by Archicon LC, applicant, Apache Honda-Yamaha-Suzuki, owner, a conditional use permit for outdoor sales display area on a 1.36 +/- acre parcel located at 7340 E McDowell Road with Highway Commercial District (C-3) zoning. **Staff has determined this use permit is not required and this case has been withdrawn.**

INITIATION

4-TA-2003 (Residential Accessory Use Text Amendment) request to initiate a Zoning Ordinance text amendment to amend accessory uses for residential uses.

MR. JONES presented this request as per the project coordination packet. Staff recommends the initiation.

CHAIRMAN GULINO inquired about the process. Mr. Jones provided a brief review of the process. Chairman Gulino recommended they schedule a study session to discuss the process.

COMMISSIONER BARNETT inquired if right now accessory is a defined term with a list of activities that are accessory uses or is it a catch all that is an external type phrase. Mr. Jones stated there are certain uses listed in residential districts that are listed by their name. There is a catch all phrase for accessory uses. They are going to try to define what is an accessory use in the residential district.

COMMISSIONER HEITEL stated he felt it was extremely important they have this discussion on accessory use because of some of the issues that have occurred in the recent past and he would strongly support seeing this brought forward.

COMMISSIONER HEITEL MOVED TO APPROVE THE INITIATION OF 4-TA-2003. SECOND BY COMMISSIONER HESS.

APPROVED

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

22-ZN-2003 (Ingleside Inn Tract Unit 03) request to initiate the application of City of Scottsdale zoning to a portion of a property annexed on November 4, 2003 from the City of Phoenix at 6002 E Carnation Circle.

MR. JONES presented this request as per the project coordination packet. Staff recommends the initiation.

COMMISSIONER HEITEL MOVED TO APPROVE THE INITIATION OF 22-ZN-2003. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

EXPEDITED AGENDA

29-UP-2003 (AZ Power Sports) request by Archicon LC, applicant, APACHE Honda-Yamaha-Suzuki, owner, for a conditional use permit for automotive repair (motorcycles & all terrain vehicles) on a 1.3+/- acre parcel located at 7340 E McDowell Road with Highway Commercial (C-3) zoning.

30-UP-2003 (AZ Power Sports) request by Archicon LC, applicant, APACHE Honda-Yamaha-Suzuki, owner, for a conditional use permit for motorcycle sales and outdoor display area (including all terrain vehicles) on a 1.36 +/- acre parcel located at 7340 E McDowell Road with Highway Commercial District (C-3) zoning.

COMMISSIONER BARNETT MOVED TO FORWARD CASES 29-UP-2003 AND 30-UP-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT TO MEETING THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

10-AB-2003 (Alley Abandonment) request by Bruce W Genthner, applicant, multiple owners, to abandon a portion of an alley adjacent to lots 7-18 in the Hidden Village Sixteen Subdivision located north of Indian School Road and west of 68th Street.

MS. SUMNERS presented this case as per the project coordination packet. Staff recommends approval, subject to the reservation for a public utility easement over, under, and across the entire subject alley.

VICE CHAIRMAN STEINBERG inquired about the existing public utilities in the alley. Ms. Sumners stated there is overhead electrical but she was not sure if there were others such as Qwest or Cox. Vice Chairman Steinberg inquired if the electrical would be relocated. Ms. Sumners replied in the negative noting that the utility companies are okay with it remaining as long as the easement remains and they are given access from the front of the homes. Vice Chairman Steinberg stated if this passes these peoples' yards would be increased, their block walls would be relocated to the north and their front yards would be increases in depth so to speak and they would still have the utility lines going through where the alley was. Ms. Sumners replied in the affirmative.

COMMISSIONER HEITEL inquired if all of the property owners are in agreement with that and are fully aware of the reservation for utility access. He also inquired if this would be a restriction that is recorded and would carry forward when these properties get transferred that access is being granted for the utility companies from the front of their properties and they are granted individually the right to build upon that easement. Ms. Sumners stated a public utility easement cannot contain any structures so that would be placed within the resolution. Commissioner Heitel stated that the wall is a structure. Ms. Sumners stated the wall is a structure and apparently they believe that the north south linear motion going across it would allow for any service needs because there is currently nothing underground it is all overhead.

Commissioner Heitel inquired if they are opening a can of worms if it is not fully represented that they can build these walls and there would be access through the front of each one of those lots. Would that be recorded with these easements? Ms. Sumners stated that they are all aware of that. Commissioner Heitel inquired who is creating the easement document. Ms. Sumners replied the City would do it within the resolution. She discussed the process.

COMMISSIONER BARNETT commented this is a little unusual. He inquired if this has been done in other places in south Scottsdale. Ms. Sumners stated over the last eight years they get two to three requests a year to abandon an alley, but she has not seen one come forward because there are a lot of issues involved with gaining 100 percent support. She further stated that this was the first one she has seen.

Commissioner Barnett stated on the map Maricopa County is listed as the northern neighborhood. He inquired if that was un-incorporated Maricopa County not the City of Phoenix. Ms. Sumners replied in the affirmative. She stated it is a small county island that was never incorporated when the surrounding property was incorporated. Commissioner Barnett inquired if there has been discussion regarding annexing that to the City of Phoenix or Scottsdale. Ms. Sumners stated it is her understanding the City gets approached from different properties

that reside within there and there is certain criteria involved in trying to annex but they have not seen anyone be able to come forward.

BRUCE GENTHNER, 6638 E. Monterosa Street, applicant, stated this issue developed in the last five years as the County property was being developed and there was a major intent to encroach on the alley property without any discussion with the people who reside on south side of the alley. The property that makes up the alley was deeded to the City of Scottsdale by the development that exists on the south side of the alley. He further stated it is their feeling any change in the purpose and use of the property should revert to the tax paying citizens of Scottsdale. The encroachments came from the county properties.

CHAIRMAN GULINO inquired if all of the property owners are in support of the abandonment. Mr. Genthner replied in the affirmative.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY)

LINDA SHARABY, 6633 E. Exeter Boulevard, stated that she supports this request, but had a few concerns. She remarked right now the wall sits on the alley way and they have the extra 10 feet of alley space in their yard and if this gets passed the wall would be removed and moved back 10 feet, which they are okay with. Their concern is about the construction of the wall and if there would be a gate because she did not want her house exposed. They are concerned about the quality of the wall that would be built and they want to ensure there is a wall built and not just the wall taken down and never put back up.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY)

MR. GENTHNER stated there is a stipulation that proper gates would be put in any walls that would be established in the current alley way area.

CHAIRMAN GULINO stated it sounds like they have an illegal encroachment in the existing alley that the current property owner inherited and Ms. Sharaby's concern is regarding what would happen if this abandonment is passed she now has a wall that is encroaching on her neighbor to the south property. Mr. Genthner stated that it was his understanding that there was an agreement between this lady and the property owner concerned that a proper wall would be built and the proper gate would be put in that wall.

Chairman Gulino stated this is a legal issue and maybe these issues should be resolved before they consider the abandonment. Ms. Sumner stated that there are a couple of encroachments into the alley. She further stated there are a couple of walls going north south to connect the walls enclosing yards. Ms. Boomsma stated that it might be a good idea to include a stipulation on the abandonment that prior to taking down the walls on the south side appropriate

walls be built in the place where they are suppose to be to the satisfaction of the neighbors to the north.

Chairman Gulino stated that he was not sure about the city's position on these encroachments into the alleyway, but what they are doing by abandoning is taking this problem and washing their hands of it and pushing it on to the individual private property owners. He further stated he was not sure that is what they want to do. He remarked that he personally was uncomfortable with the wall encroachment issue. Ms. Boomsma stated at this point, what they are being asked is if from a land use perspective it is a good idea or not a good idea. If they felt it was not a good idea until the private disputes are settled then they could recommend denying the abandonment, or continuing, or approving with stipulations.

COMMISSIONER HEITEL stated he thought it would be appropriate to have a survey of that current condition so they know what kinds of problems exist. He further stated for them just to abandon this alley, walk away, and say all the private property owners' fight amongst yourselves that would not be proper public policy.

CHAIRMAN GULINO stated that he did not want to hold this up and would be in favor of forwarding it to the City Council with additional stipulations that would address the issues. Ms. Sumners stated the Commission could add a stipulation that a wall must be constructed along the north alley before the wall is removed.

COMMISSIONER HEITEL inquired who is responsible for doing the construction. Ms. Sumners stated there have been discussions with the property owners that would be getting the land back and it was discussed that it might be their burden to remove the walls that are currently out there in the alley.

CHAIRMAN GULINO inquired if they could include that responsibility in the stipulation. Ms. Boomsma stated she would recommend that the city does not get intimately involved in private property disputes because if they can't come to an agreement the city would be forced to intervene at the expense of the city. She further stated if they would like to include some kind of stipulation that there be written agreements ahead of time or ask to continue this until they are shown sufficient written agreements that are suitable to both sides of the street. She remarked that would be something that would leave the responsibility in the hands of the private property rather than in the hands of the City.

COMMISSIONER HEITEL inquired if the City of Scottsdale has some obligation to transfer this property back to make sure it is done in a proper, efficient and thorough manner. Ms. Boomsma replied in the affirmative.

MS. SUMNERS suggested they add the following stipulation: Walls must be constructed along the north alley line before the walls are removed along the south alley line. Commissioner Barnett stated that stipulation does not address the quality issue. Ms. Sumners stated they could add to the stipulation that it is constructed with what is already there.

MR. GENTHNER stated that the Commission also needs to consider that the city does have liability with this alley as it is today. One of the residents fell in the alleyway.

CHAIRMAN GULINO stated that he would support some kind of a stipulation so they can move this on. He further stated that he would hope that before this goes to the City Council they can speak more definitively to the encroachment issues and the parties on both sides of the fence have agreed to who is going to pay for it and who is going to move it. Mr. Genthner stated that could be resolved.

COMMISSIONER HEITEL stated he would agree that the alleyway needs to go back but he is uncomfortable creating fights between the neighbors.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 10-AB-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL BUT THAT IT NOT GO TO CITY COUNCIL FOR CONSIDERATION UNTIL:

A BOUNDARY SURVEY IS DONE OF THE ALLEY.

THE RESOLUTION OF ALL ENCROACHMENTS IS DEALT WITH IN WRITING AS PART OF THAT CONDITION PRECEDENT TO GOING TO THE CITY COUNCIL.

MEMORANDUM OF EASEMENT IS RECORDED ON ALL PROPERTIES DESCRIBING SPECIFIC ISSUES TALKED ABOUT REGARDING PERMISSION TO BUILD WALLS AND SPECIFIC INGRESS AND EGRESS FROM THE PROPERTIES.

SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

REGULAR AGENDA

7-GP-2002 (Scottsdale Professionals on Shea) request by Palmer Architects Inc., applicant, Scottsdale Professionals On Shea, owner, for a General Plan amendment (non-major) from Rural Residential to Office

(minor) on a 4.24 +/- acre parcel located within the Shea corridor at the northeast corner of Shea Blvd. & 85th Place.

14-ZN-2002 (Scottsdale Professionals on Shea request by Palmer Architects Inc., applicant, Scottsdale Professionals On Shea, owner, to rezone from Single Family Residential District (R1-35) to Service Residential District (S-R) on a 4.24 +/- acre parcel located at the northeast corner of Shea Blvd and 85th Place.

MR. CURTIS presented cases 7-GP-2002 and 14-ZN-2002 as per the project coordination packet. Staff is recommending approval, subject to the attached stipulations.

COMMISSIONER BARNETT inquired if the Shea corridor area has a designated Landscape plan. Mr. Curtis replied in the negative.

JOHN BERRY, 4800 N. Scottsdale Road, provided information on the history of this project. He stated over the years there have been many proposals for this land. He further stated in 2000 this approximately 8-acre parcel was zoned to S-R the project was rezoned with a great deal of support and some opposition. At the same time this four-acre parcel came forward with the exact same request for S-R zoning that is before them this evening and was across the street and that request was rejected. He remarked the logical question would be what has changed since the year 2000. He reviewed what has changed. He discussed the issues associated with the development of that property and the lessons they have learned.

Mr. Berry reported there have been many project improvements, based on extensive outreach to the surrounding neighborhoods over the past two years are now incorporated into the project. The commitments are illustrated on the site plan, and confirmed in CC&Rs between various nearby homeowners and the Palmer/Hart Building Group. The residential scale and character of the project has been emphasized by providing variations of color, materials, staggered buildings, and window treatments to emphasize the individuality of each unit. Details such as working fireplace are proposed. He discussed the proposed lighting for the site.

Mr. Berry stated for the record his client is going to put up \$10,000 in escrow when the CC&Rs are recorded, as fund for the neighbors to sue him if he does not perform under those CC&Rs.

Mr. Berry provided a brief comparison of the project to the west and this project. He stated they have learned a lot of lessons and because of working with the neighbors this is a much better project.

Mr. Berry stated the single most important change from three years ago is the cross access to the shopping center. He noted they have reached a tentative agreement with the shopping center development. He further stated the number one issue from the project in 2000 was traffic they don't want any access onto the residential street.

Mr. Berry thanked the neighbors who have been very generous with their time and consequently have made this a better project.

VICE CHAIRMAN STEINBERG stated the Shea Plan requires dense planting between commercial and residential at the north end of this property line on the site plan he did not see very much landscaping. He inquired if there would be landscaping between the future abandoned Clinton Street and the residential to the north. Mr. Berry replied in the affirmative. He stated they would provide the landscaping on the north and work with the landowners.

Vice Chairman Steinberg inquired if they were confident they would successfully negotiate the cross access easement. Mr. Berry replied in the affirmative. Vice Chairman Steinberg inquired if that should not happen would the neighbors support making a left only out onto 85th Street and head south on 85th Street to Shea Boulevard. Mr. Berry replied that he would not go there because he would not betray the neighbors.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

ART SCHMITT, 10630 N. 84th Street, spoke in support of this request. He stated that he lives about a half a block west of this project. He further stated that he has been deeply involved with the Office at Sundown Ranch and they have learned some valuable lessons. He commented that he felt the S-R zoning is very valuable for in fill but felt there are some concerns regarding safety. He further commented regarding this project he put time into stressing why it should be residential and why it should be heavily buffered. He remarked that this project would greatly enhance the area. He further remarked that it has been very well thought out and the CC&Rs are very strict.

Mr. Schmitt stated that these in fill projects can be very stressful to the neighborhood and he would ask that when in fill projects come before them that they really look at them closely.

JACQUE McAYEAL, 8685 E. Gail Road, spoke in support of this request. She stated that she is the President of the Homeowners Association for Reflections at Pima Crossing that is directly behind Pima Crossing Shopping Center. She further stated that they access their properties at 85th Place and Shea and for the past seven years or more that intersection has been blighted. They welcome and endorse the rezoning to allow Mr. Palmer's development. She remarked it

would be helpful if the curb cut on Shea Boulevard to access property to extend to 85th Place street access road and thus relieving the right turn at 85th Place from busy traffic lane on Shea.

KEN LAGAN, 8532 E. Appaloussa Trail, stated he lives in McCormick Ranch directly across from 85th Place. He further stated the question was asked by one of the commissioner's about left coming out of 85th and the answer is definitely no. He reported the major problem they have at McCormick Ranch with this development is the major arterial street Shea is being accessed by the developments in the area and the 101 loop and now they would be adding more traffic from this project. They would be creating a garden spot and a place that would have white crosses and plastic flowers. This area is too busy, the neighbors to the north should share in the traffic flow, and that 85th should be open up for right turn into 85th to this project then let traffic flow Shea. He suggested if this project were given the go ahead that no access on Shea and access be given to 85th. He noted that the folks to the north of Shea got incredible perks for having this put in that McCormick Ranch did not receive. He concluded if this does go through he would like to know how they are going to protect McCormick Ranch on the north side because right now they have an inferior wall that is five and a half feet tall and that is all that protects them from the traffic on Shea.

STEPHEN ZIOMEK, 8390 E. Corrine Drive, spoke in favor of this request. He stated that he goes to Saint Patrick's Church on 84th and Shea and is a property owner at the property to the west Sundown Ranch. He further stated that he has witnessed the problems that Mr. Schmitt spoke about. He remarked he thought this was a fantastic project and adds a lot to the property values and ambiance of the area.

LORI HEATH, 8608 E. Gail Road, spoke in favor of this request. She stated that since they have moved into their house six years ago they have seen those run down houses get worse. She further stated that she had called the police several times because those doors were kicked in and they did not know if someone camped out in the house and might start a fire. She noted that Mr. Palmer was nice enough to put a nice fence up and that stopped a lot of the problems. She further noted that she felt this is a logical use for that property.

Ms. Heath stated that she did not want traffic coming down 85th and go north. She discussed the problems that would occur having the traffic going down 85th Place. She further stated what she would like to see put in a "triangle thing" that would still allow you to make a left onto 85th Place but prevents a north on 85th Place coming on Shea cars that are coming west on Shea try to pull a U-turn.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. BERRY thanked the neighbors for taking the time to come down this evening. He noted that Mr. Schmitt was their harshest critic and many of the changes were a direct result of Art Schmitt and his relationship with the neighbors. He stated the comment made by Jacque, Reflections Group they asked about a deceleration lane and extending further west to 85th Place. He further stated that was something that they did not think of and they would do what the city wants them to do. If the city believes that is safe and will work, they will absorb the cost of doing that.

Mr. Berry stated with regard to Mr. Lagan's comments regarding opening 85th and allowing traffic that is what everyone north of Shea does not want to happen. They don't want it to be a war between north and south and that is not something that either the traffic department at the city or themselves could support but they do appreciate his comments. He noted they have incorporated some of Ken's concerns. He further noted that they would agree the traffic in this area is challenging but this project will not cure all the woes of the traffic on Shea Boulevard. He commented they explored putting additional landscaping in the south side of Shea in the city right-of-way up against the wall, but it is their understanding that plants do not live there. If there is a way to get landscaping to live in that area, they would be happy to plant it. He further commented with regard to the five and a half foot wall to protect the people on the south side of Shea Mr. Palmer has offered if possible to add a course or two of bricks if it is possible for those walls to support them.

Mr. Berry stated with regard to Ms. Heath's suggestion to add a "triangle thing" they very much like the idea and they would like to work with the city traffic engineer to see if that issue can be addressed.

VICE CHAIRMAN STEINBERG thanked Mr. Palmer for being so generous and offering to do more than most and has worked very diligently with the community and the results will payoff for everybody. He stated he thought it is a wonderful project.

VICE CHAIRMAN STEINBERG MOVED TO FORWARD CASES 7-GP-2002 AND 14-ZN-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER BARNETT.

COMMISSIONER HEITEL inquired if the maker of the motion would add the issues of the deceleration lane and the triangle thing. Mr. Berry requested that they give staff and the engineering department the flexibility to study that implement the solution that is safe and works. Commissioner Heitel stated he did not want to make it a stipulation but just a recommendation. Mr. Jones stated staff would work on those two issues.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

4-GP-2003 (Centennial Marketplace) request by Beus Gilbert PLLC, applicant, Arizona State Land Department & Byxbee Development Partners, owners, for a General Plan Amendment (non-major) from Office (minor) to Commercial on a 7.79 +/- acre parcel located at the northwest corner of 100th Street and Frank Lloyd Wright Blvd.

61-ZN-1982#2 (Centennial Marketplace) request by Beus Gilbert PLLC, applicant, Arizona State Land Department & Byxbee Development Partners, owners, to rezone from Planned Community District, Service Residential District (PCD S-R) to Planned Community District, Planned Neighborhood Center (PCD PNC) with amended development standards and revised stipulations on a 7.79 +/- acre parcel located at the northwest corner of 100th Street and Frank Lloyd Wright Blvd.

24-UP-2003 (Centennial Marketplace) request by Beus Gilbert PLLC, applicant, Arizona State Land Department & Byxbee Development Partners, owners, for a conditional use permit for a health studio on a 7.79 +/- acre parcel located at the northwest corner of 100th Street and Frank Lloyd Wright Blvd.

MR. CURTIS presented cases 4-GP-2003, 61-ZN-1982#2 and 24-UP-2003 as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER BARNETT inquired if the amended development standards are only for this project and not citywide. Mr. Curtis replied they are only for this project.

JOHN BERRY, 4800 N. Scottsdale Road, provided background information on this site. He stated overtime as the market changed much of the land was rezoned from commercial to residential so they need more retail in the area to serve those homes. He further stated the developer has met with all the surrounding HOA's regarding the proposed development and has received unanimous support for the project. Hancock Homes, the developer of the parcel immediately west of the project, has also endorsed the project. He noted that the character of the proposed development is proposed to be consistent with the character of the residential communities adjacent to the project in the Scottsdale Horizons area. He reviewed the changes that have been made. He further noted they have discussed the traffic issues with the neighbors and addressed their concerns.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

THOMAS COE, 14246 N. 99th Street, stated that he is in support of the general plan for this neighborhood PNC. He further stated that one area has not been resolved is the fitness center issue. He reported his contention is the issue of amending the development standards other than for the drug store size needs to be addressed with the homeowners. He further reported another concern is regarding the hours of operation which are not mentioned in the amended PNC zones. Also, the 10,000 feet enlargement of the specialty shops, which they thought, were limited to 3,000 feet. He noted he would recommend that these issue be dealt with and talk to people in the community before these amendments are made.

VICE CHAIRMAN STEINBERG inquired about Mr. Coe's specific concern regarding the health club. Mr. Coe stated that his concerns are regarding the type of traffic and hours of operation.

ROBERT RAKOWSKI, 16618 S. 41st Street, Phoenix, AZ, spoke in favor of this request. He stated that his company was retained to do the neighborhood work on this project. He further stated regarding the last comment that no one knew about the size of the fitness center they gathered the majority of the signatures in support when it was proposed to be 40,000 square foot and it has now been reduced to 15,000 square foot. He read a letter from John Grow that expressed his support of this project. The letter indicated that the plan is right for their area.

JAMES KASARSKIS, 10066 E. Friess Drive, spoke in favor of this request. He stated they were originally presented with two proposals and they supported the commercial fairly large fitness center because they did not want residential. He further stated one of the issues he had was that a lot of the buildings started to migrate to their side of the property and part of the response was to scale the buildings down to actually make them more friendly to their neighborhood. He remarked overall they have done a very good job with that but there is still concern that all buildings tend to migrate to their side of the property.

THOMAS WEAVER, 10136 E. Floridae Drive, spoke in favor of this request. He stated he is the President of Scottsdale Stone Brick HOA. He further stated they have met with the development team to review and discuss the plan. He noted that at these meetings the residents of the development expressed several concerns one was the traffic exit at Meadow Hill. They discussed the height of the drugstore and the amount of lighting that would be used and how it would affect the residents. He further noted that the development team took to heart their concerns and the proposals they have seen have addressed their concerns. He concluded that the proposal has been scaled down and they agree this is one of the nicest developments they have seen proposed for this area and are in support.

MARK ORTEGA, 10011 E. Sheena Drive, President of AVIARA HOA, spoke in favor of this request. He stated that he saw the proposal for the apartments, and the commercial/health club proposal. He did not want to see apartments and while he did not oppose the health club, he opposed the size of the health club. He further stated that he has been extremely active with the developer of the staff. He commented he has been demanding about the green belt type of vegetation adjacent to the Sheena Drive entry. He further commented his challenge to the development team was to stand in his front yard and to look west that when they looked at the proposed project that it was as attractive as if they were looking into Sheena Drive. He reported that they listened to him and they understood him and they have proposed green back setbacks. He commented he was pleased that they would be elevating the medians on 100th Street to slow traffic.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. BERRY apologized to Mr. Coe that if for some reason they were not clear when they talked to him. He stated for the record they did recall seeing the plan with the 40,000 square foot health center that was what the neighbors saw in June 2002 and then in November 2002 they saw the proposal with the reduction in size of the building to 15,000. He further stated they would be happy to meet with the group again if they have concerns.

Mr. Berry stated this is a case of a developer doing good and the community benefiting particularly as it relates to the traffic issue. He further stated this is a planned neighborhood center. He commented that he failed to point out that that Hancock Homes wanted pedestrian connections to this development and that is being provided.

COMMISSIONER HEITEL inquired if the applicant would be okay if they recommended that the DR Board pay particular attention to the back and the sides of the street facing portion of that building. Mr. Berry stated that the staff stipulations state they cannot have lights or signs facing the neighbors and require more vegetation. He reviewed the elevations.

VICE CHAIRMAN STEINBERG inquired if it would be four-sided architecture. Mr. Berry replied in the affirmative.

Vice Chairman Steinberg commended the developer for reaching out to the community and incorporating their desires in a very meticulous fashion. He stated from all of the things he has heard tonight is costing a lot of money and the end result will be wonderful.

VICE CHAIRMAN STEINBERG MOVED TO FORWARD CASES 4-GP-2003, 61-ZN-1982#2 AND 24-UP-2003 TO THE CITY COUNCIL WITH A

**RECOMMENDATION FOR APPROVAL SUBJECT THAT IT MEETS THE
CRITERIA OF THE USE PERMIT. SECOND BY COMMISSIONER BARNETT.**

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

WRITTEN COMMUNICATION

There was no written communication.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 7:25 p.m.

Respectfully Submitted,

"For the Record " Court Reporters

APPROVED